

62A-3-207 Confidentiality of materials relating to complaints or investigations -- Immunity from liability -- Discriminatory, disciplinary, or retaliatory actions prohibited.

- (1) The ombudsman shall establish procedures to assure that all files maintained by the long-term care ombudsman program are disclosed only at the discretion of and under the authority of the ombudsman. The identity of a complainant or elderly resident of a long-term care facility may not be disclosed by the ombudsman unless:
 - (a) the complainant or elderly resident, or the legal representative of either, consents in writing to the disclosure;
 - (b) disclosure is ordered by the court; or
 - (c) the disclosure is made to a local area agency on aging, the state adult protective services agency, the Department of Health, the Department of Public Safety, the local law enforcement agency, or the county attorney as part of the investigation of a complaint.
- (2) Neither the ombudsman nor its agents or designees may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce the provisions of this part.
- (3) Any person who makes a complaint to the ombudsman pursuant to this part is immune from any civil or criminal liability unless the complaint was made maliciously or without good faith.
- (4)
 - (a) Discriminatory, disciplinary, or retaliatory action may not be taken against any volunteer or employee of a long-term care facility or governmental agency, or against any elderly resident of a long-term care facility, for any communication made or information given or disclosed to aid the ombudsman or other appropriate public agency in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith.
 - (b) This subsection does not infringe on the rights of an employer to supervise, discipline, or terminate an employee for any other reason.

Amended by Chapter 176, 1993 General Session